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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 10/669,320

Confirmation No.: 4144

In re Application of:

Group Art Unit: 2871

Kazuhiro NISHIYAMA

Examiner: Parker, Kenneth A.

Filed: September 25, 2003

New Attorney Docket No.: 28951.3026 D1

Old Attorney Docket No.: OGOH:026A

For: LIQUID CRYSTAL ELEMENT AND MANUFACTURING METHOD THEREOF

REQUEST FOR REFUND

US Patent and Trademark Office  
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Randolph Building  
401 Dulany Street  
Alexandria, VA 22313-1450

Applicants and their undersigned attorneys hereby request refund of the \$1,020 amount which the PTO was authorized to charge Deposit Account No. 19-4293 by the document entitled PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) filed May 1, 2006. The refund may be credited to that Deposit Account No. 19-4293.

The facts are as follows: On February 3, 2006 the USPTO apparently mailed an Advisory Action in this application addressed to the former address of applicants' undersigned attorney. A copy of that Advisory Action is attached hereto as Appendix A.

Previously, on January 19, 2006, applicants' undersigned attorney had filed a Notice of Change of Correspondence Address [a copy of which is attached hereto as Appendix B] along with the Amendment Under 37 CFR 1.116 filed on that date. Proof of filing of the Notice of

Applicant : Kazuhiro NISHIYAMA et al.  
Serial No. : 10/669,320  
Filed : September 23, 2003  
Page : 2

Attorney's Docket No.: 28951.3026 D1

Change of Correspondence Address is demonstrated by applicants' firm's postcard receipt [Appendix C] which is stamped with the USPTO receipt date stamp JAN 19, 2006 .

Applicants' undersigned attorneys later were able to obtain a copy of the Advisory Action mailed February 3, 2006 which was apparently returned to the USPTO on February 10, 2006 as evidenced by the USPTO receipt date stamp appearing on the first page of Appendix A, attached.

The Advisory Action was apparently returned to the USPTO by the U.S. Postal Service, despite the fact that applicants' undersigned attorney had in place with the U.S. Postal Service a Mail Forwarding Notice to a designated and active USPS Postal Box, as shown on Appendix D, attached.

Yet, when the USPTO received the returned Office Action, the USPTO did nothing to notify applicants or their undersigned attorneys of the existence of the Advisory Action.

As a result, when applicants' undersigned attorneys discovered the existence of that action by inquiry on May 1, 2006, applicants' undersigned attorneys immediately filed a Notice of Appeal and a Petition for Three-Month Extension of Time to maintain the pendency of this application.

Had the USPTO mailed the Advisory Action to the proper address in accordance with applicants' January 19, 2006 Notice of Change of Correspondence Address, or had the USPTO acted to mail the Office Action to applicants' undersigned attorney at the newly-designated

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correspondence address after it was returned to the USPTO, the need for filing the petition for three months' additional time, and the authorization to charge applicants' attorneys' Deposit Account \$1,020, would have been unnecessary. Accordingly, in these circumstances applicants and their undersigned attorneys hereby respectfully request refund of the amount of \$1,020, which refund should immediately be credited to Deposit Account 19-4293.

If deemed necessary, this request may be considered a petition under 37 CFR 1.181 et seq., and the fee therefore charged to Deposit Account No. 19-4293. However, applicants believe that no such fee should be so charged, and if such a fee is charged by the PTO, applicants hereby request that such fee be refunded in view of the facts of this case.

Respectfully submitted,



Roger W. Parkhurst  
Registration No. 25,711

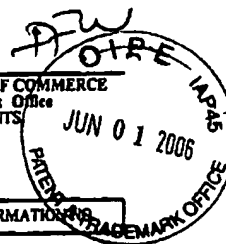
Date: May 31, 2006

STEPTOE & JOHNSON L.L.P.  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
Telephone: (202) 429-6420  
Facsimile: (202) 429-3902



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,320	09/25/2003	Kazuhiro Nishiyama	OGOH : 026A	4144

6160 7590 02/03/2006

PARKHURST & WENDEL, L.L.P.  
1421 PRINCE STREET  
SUITE 210  
ALEXANDRIA, VA 22314-2805



APPROPRIATE  
RETURN  
DATE

EXAMINER

CHIEN, LUCY P

ART UNIT PAPER NUMBER

2871

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

APPENDIX A

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/669,320

Applicant(s)

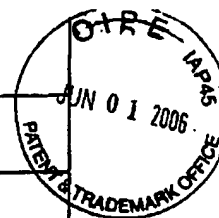
NISHIYAMA ET AL.

Examiner

Lucy P. Chien

Art Unit

2871



**-The MAILING DATE of this communication appears on the cover sheet with the correspondence address -**

**THE REPLY FILED 1/19/2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.**

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 51-65.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

It is respectfully noted that Applicant has amended Claim 52. the amendmens to Claim 52 will require a further search.

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*Andrew Schechter*  
ANDREW SCHECHTER  
PRIMARY EXAMINER

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Serial No. 10/669,320

In re Application of

Confirmation No. 4144

Kazuhiro NISHIYAMA

Group Art Unit: 2871

Filed: September 25, 2003

Examiner: Kenneth A. Parker

For: LIQUID CRYSTAL ELEMENT AND MANUFACTURING METHOD THEREOF

NOTICE OF CHANGE OF CORRESPONDENCE ADDRESS

US Patent and Trademark Office  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, Virginia 22314

Sir:

Please forward all future correspondence in connection with  
the above-identified application to the undersigned attorney of  
record at the following new address:

Charles A. Wendel  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
Telephone: (202) 429-3000  
Telefax: (202) 429-3902

Respectfully submitted,



Charles A. Wendel  
Reg. No. 24,453

→ Date: January 19, 2006

Old Attorney Docket: OHOH:026A  
New Attorney Docket: 28951.3026/D1

APPENDIX B



Docket Administrator  
Box PTO  
Steptoe & Johnson  
1330 Connecticut Avenue NW  
Washington, DC 20036-1795

**USPTO RECEIPT FOR INDICATED ITEMS**

Date: January 19, 2006  
Atty. Ref.: 28951.3026 D1  
Due Date: January 31, 2006

Serial No. 10/669,320

Kazuhiro NISHIYAMA

Filed: September 25, 2003

For: LIQUID CRYSTAL ELEMENT AND MANUFACTURING METHOD  
THEREOF

Items Enclosed:

1. Amendment Under 37 CFR 1.116
2. Notice of Change of Correspondence Address



**DOCKETED**

APPENDIX C



MAY 01 2006

PTO/SB/22 (12-04)

Approved for use through 7/31/2006. OMB 0551-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)</b> <b>FY 2005</b> <b>(fees effective on or after December 8, 2004)</b>		<b>Docket Number:</b> <b>28951.3026</b>	
<b>Application Number</b> 10/869,320		<b>Filed</b> September 25, 2003	
<b>For</b> LIQUID CRYSTAL ELEMENT AND MANUFACTURING METHOD THEREOF			
<b>Art Unit</b> 2871		<b>Examiner</b> Parker, Kenneth A.	

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

	<u>Fee</u>	<u>Small Entity Fee</u>	
<input type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$120	\$60	\$ _____
<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$450	\$225	\$ _____
<input checked="" type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$1020	\$510	\$ <u>1020</u>
<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1590	\$795	\$ _____
<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2160	\$1080	\$ _____

☐ Applicant claims small entity status. See 37 CFR 1.27.

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 19-4293. I have enclosed a duplicate copy of this sheet.

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

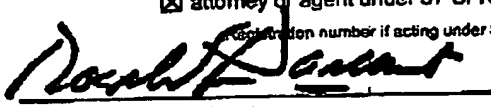
I am the ☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71  
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☐ attorney or agent of record. Registration Number \_\_\_\_\_

☒ attorney or agent under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34. 26,177

  
Signature  
Roger W. Parkhurst  
Typed or printed name

May 1, 2006  
Date  
202-429-6420  
Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 121 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing this form, call 1-800-PTO-9199 and select option 2. (1656864\_1)

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